

MIBFN

Michigan Breastfeeding Network

JURY DUTY



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SYSTEM CHANGER'S GUIDE TO JURY DUTY

www.mibreastfeeding.org/jury-duty



BREASTFEEDING IS GOOD FOR EVERYONE

Breastfeeding is not a lifestyle choice: it is a public health imperative for families in our society and is recognized as the optimal method for feeding and nurturing children. It is a biological norm to breastfeed infants and young children. The American Academy of Pediatrics (AAP) recommends exclusive breastfeeding for the first six months of life and the World Health Organization (WHO) recommends breastfeeding until at least two years of age with continuation of breastfeeding as long as mutually desired by mother and child.^{1,2} Recent estimates show that over 800,000 child lives worldwide and 20,000 maternal lives could be saved each year if every child were exclusively breastfed, meaning that the infant receives only breast milk and no other liquids or solids, for the first six months of life.³ Additionally, associated medical cost differences equaled a savings of \$40.2 million per year.⁴ Breastfeeding provides valuable protection against illnesses such as diarrhea, pneumonia, and upper respiratory infections in addition to protection against Sudden Infant Death Syndrome (SIDS), particularly during the first year of life.⁵ Breastfeeding also provides lasting health benefits with lower incidences of allergy, asthma, high blood pressure, and obesity as breastfed infants enter into childhood and adolescence. Breastfeeding also promotes socio-emotional development, contributing to positive maternal self-image while

developing a stable, nurturing maternal-infant relationship. The emotional security and warmth developed within the breastfeeding relationship promotes an early and secure attachment for the child, which is central to subsequent development. Breastfeeding affects children's cognitive and social functioning with typical IQ gains of two to five points in healthy infants and up to eight points for low birthweight babies, which significantly impacts school readiness and participation.⁶ In addition to these benefits for infants and children, WHO also states that breastfeeding helps to improve the health of mothers by lowering the risk of postpartum depression and decreasing their lifetime incidence of cardiovascular disease, type II diabetes, osteoporosis, and breast and ovarian cancers.



MOTHERS ARE VALUABLE MEMBERS OF SOCIETY

Jury duty is an obligation that all citizens of the United States are called to uphold. Jury duty ensures equal representation of opinion while upholding the just measure of the law. Accordingly, motherhood and citizenship are not incompatible: the courts should not treat a breastfeeding mother like a liability when it comes to her participation in jury duty. Breastfeeding mothers should not be summarily dismissed from this civic responsibility based solely on the fact that they breastfeed their children. Courts need to welcome breastfeeding mothers as potential jurors in order to provide defendants with a true jury of their peers. Based on recent work that supports breastfeeding and provides better breastfeeding education, accommodation, and promotion, the same consideration now needs to include the courthouse and the judicial process, expanding upon federal legislation that protects breastfeeding in public and private areas.

BEST PRACTICES INCLUDE RACIAL, ETHNIC, AND GENDER INCLUSIVENESS IN JURY SERVICE

As found in *Batson v. Kentucky* in 2016 and endorsed by the Justices of the Supreme Judicial Court, Best Practices for Jury Selection should include historically underrepresented racial and ethnic groups or underrepresentation based upon gender (476 U.S. 79 1986).⁷ Prosecuting attorneys must be mindful of this history and the importance of inclusion in maintaining public confidence in the justice system. As stated in *J.E.B. v. Alabama*, the United States Supreme Court ruled “discrimination in jury selection, whether based on race or on gender, causes harm to the litigants, and the individual jurors who are wrongfully excluded from participation in the judicial process” (511 U.S. 127 1994).⁸

WHY WOMEN'S VOICES MATTER

As late as 1942, only 28 states had laws that allowed women to serve as jurors, but these states also gave them the right to claim exemption solely based on their sex. The Civil Rights Act of 1957 gave women the right to serve on federal juries, but it wasn't until 1973 that women could serve on juries in all 50 states.⁹ The fight for women to be included on juries in the United States should not be erased because of their status as breastfeeding mothers. When a woman serves on a jury as a breastfeeding mother, she brings to the table valuable experiences and opinions.



BREASTFEEDING IS NOT A HARDSHIP OR A BURDEN

How does a woman fulfill her civic duty while breastfeeding? A number of states still consider breastfeeding an “undue hardship” when exempting women from jury duty. Unfortunately, antiquated, and often negative, attitudes toward breastfeeding permeate the dialogue surrounding a breastfeeding and jury duty. As it currently stands, 17 states have laws that either exempt breastfeeding mothers from jury duty or allow postponement.¹⁰ The 2012 Michigan Jury Duty Exemption Law for Nursing Mothers provides women with a legal exemption from jury service for the length of time they are breastfeeding a child.¹¹ A letter from a healthcare provider is needed to verify that the woman is breastfeeding.

BREASTFEEDING WOMEN DESERVE A JURY OF THEIR PEERS

While a straightforward exemption policy may initially be seen as positive, it is important to consider the ramifications of simply exempting all breastfeeding mothers from jury duty.

In light of the fact that there are more women incarcerated now than at any other time in U.S. history, an exemption from jury duty should be challenged as the best solution available for breastfeeding women. Instead, jury duty should be a seamless experience for breastfeeding women. Women's equal representation on juries ensures that fairness, equality, and accountability is maintained throughout the judicial process. Women's participation, and especially breastfeeding women's participation, should not be dismissed.

EXEMPTION EXISTS FOR THOSE MOTHERS WHO CANNOT SERVE

Due to current practices at courthouses, serving jury duty and breastfeeding create an unmanageable situation for their families. As such, many mothers decide they are unable to serve if their children do not yet receive supplemental feedings or are not old enough for supplemental food. Other reasons may include a lack of expressed breast milk for the child while the mother is away or the a caregiver who is unable to handle feedings in the mother's absence. The 2012 Michigan Jury Duty Exemption Law for Nursing Mothers provides these mothers with a legal exemption from jury service for the period in which they are nursing a child. Mothers provide a letter their healthcare provider verifying their breastfeeding status. Michigan is one of 17 states plus Puerto Rico that exempt breastfeeding mothers from jury duty.



COURTHOUSE ACCOMMODATIONS ARE LACKING

Once breastfeeding women are considered a vital part of the juror selection process, accommodations for women bringing their children with them to jury duty or for those that will express milk while they are at the courthouse must be addressed. In multiple states, mothers have shared their stories that make clear current accommodations are not adequate. These stories come from women throughout the country, from states such as California and Illinois, and have highlighted some of the challenges breastfeeding women face. Current barriers include insufficient designated milk expression areas, lack of time offered in order to express milk, and disrespect from individual judges. Far too often, breastfeeding mothers are still told to utilize the bathroom to express milk while they are serving on a jury.

RECOMMENDATIONS: FROM THE PRACTICAL TO THE SYSTEMIC

The following recommendations are designed to ensure that, whenever possible, women are welcomed as breastfeeding jurors

Jury duty summons should include specific information for breastfeeding mothers:

citizens are called to jury duty, information on the policies in place for breastfeeding jurors should be included in order to eliminate the confusion and trepidation many breastfeeding women face when considering jury duty. Information could include the length of time and the place provided for women to breastfeed or express milk, if the court provides assistance in finding child care, and whether an exemption is available, in addition to other useful information

Exemptions for breastfeeding mothers who are unable to serve should be upheld:

The 2012 Michigan Jury Duty Exemption Law for Nursing Mothers ensures that any woman called to jury duty while breastfeeding a child can file an exemption. This information should be clearly stated on the jury summons and should be upheld without question. This exemption is a valid excuse from jury duty and is an essential accommodation for breastfeeding women who in the past have faced insufficient designated pumping areas and/or inadequate time offered to breastfeed or express milk. At present, 17 states and Puerto Rico have laws that exempt breastfeeding mothers from jury duty. In 2018, Ohio became the most recent state to introduce a bill (House Bill 513) to allow an exemption based on breastfeeding status.¹²



Mandatory breastfeeding education for all court employees from clerks to judges:

Education about breastfeeding accommodation should be a required element of training for all those employees working within a courthouse and the policy should be made available to all employees as well as to those visiting the courthouse. This includes a written policy as well as signage indicating that courthouses welcome breastfeeding within their halls.

Circuit, district, and federal courts should adopt official policies providing accommodations for breastfeeding and milk expression during jury duty for breastfeeding mothers:

Once written policy is passed into law the physical space and procedures must be scrutinized for real-world applicability. At present, courtrooms are ill-equipped to accommodate breastfeeding mothers, which discourages them from serving on juries and excludes women from the judicial process. Just as workplaces are now mandated to provide break time for breastfeeding mothers, courts should also be required to provide time and a proper place to express milk or breastfeed a

child that is not a bathroom.

Policies supporting breastfeeding women as jurors should be adopted at the federal level:

Federal law must mandate that courthouses provide a written policy protecting breastfeeding women who serve on juries, guaranteeing time and space for breastfeeding and/or milk expression. Throughout the country, courthouses must create an environment that not only supports breastfeeding women but also normalizes breastfeeding within our society.



LOOKING AHEAD: A NEW BREASTFEEDING LANDSCAPE

We envision a Michigan in which women are encouraged to engage fully in their civic duties regardless of their breastfeeding status. Women must be supported in reaching their breastfeeding goals and this support must extend to all aspects of life. We envision a judicial system that recognizes the value of implementing breastfeeding-friendly policies within the courthouses, allowing women to participate in jury duty without compromising the breastfeeding relationship they share with their children.

MIBFN BREASTFEEDING AND JURY DUTY REFERENCE LIST

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